

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 421.14 and 422.68, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 239, “Local Option Sales Tax Urban Renewal Projects,” Iowa Administrative Code.

The subject matter of 701—Chapter 239 is Local Option Sales Tax (LOST) Urban Renewal Projects. The proposed amendments to this chapter add a requirement that, before a city can create a LOST urban renewal area by ordinance, the county board of supervisors from which county LOST revenues will be diverted must first approve the city’s collection and use of county LOST revenues.

These amendments are proposed as a result of 2012 Iowa Acts, House File 2460.

The proposed amendments will not necessitate additional expenditures by political subdivisions or agencies and entities which contract with political subdivisions. Any person who believes that the application of the discretionary provisions of this amendment would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

The Department has determined that the proposed amendments will not have an impact on small business. The Department has considered the factors listed in Iowa Code section 17A.4A. The Department will issue a regulatory analysis as provided in Iowa Code section 17A.4A if a written request is filed by delivery or by mailing postmarked no later than November 5, 2012, to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. The request may be made by the Administrative Rules Review Committee, the Administrative Rules Coordinator, at least 25 persons signing that request who each qualify as a small business or an organization representing at least 25 such persons.

Any interested person may make written suggestions or comments on these proposed amendments on or before October 23, 2012. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306.

Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8036 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by October 23, 2012.

After analysis and review of this rule making, the Department has determined the proposed amendments will not have an adverse impact on jobs.

These amendments are intended to implement Iowa Code sections 423B.1 and 423B.7 and section 423B.10 as amended by 2012 Iowa Acts, House File 2460, section 23.

The following amendments are proposed.

ITEM 1. Amend rule 701—239.1(423B) as follows:

701—239.1(423B) Urban renewal project. ~~An~~ Only after the county board of supervisors from each county where the urban renewal area from which local option sales and services revenues are to be collected and used to fund urban renewal projects adopts a resolution approving the collection and use of local sales and services tax revenue for urban renewal projects may an eligible city ~~may~~ by ordinance of the city council provide for the use of a designated amount of the increased local sales and services tax revenues collected under this chapter which are attributable to retail establishments in an urban renewal

area to fund urban renewal projects located in the urban renewal area. The designated amount to be used to fund urban renewal projects may be all or a portion of such increased revenues, subject to the limitations imposed by the resolution adopted by the county board, or boards, of supervisors. This rule applies to any urban renewal project to be funded by a city's collection and use of local option sales and services tax revenues on or after July 1, 2012.

ITEM 2. Amend rule 701—239.4(423B) as follows:

701—239.4(423B) Requirements for cities adopting an ordinance.

239.4(1) ~~At~~ Within at least 90 days following the adoption of an ordinance, an eligible city must notify the director of the department of revenue of its intent to pursue funding for an urban renewal project based upon the increase in local sales and services tax revenue. The notification must include the following information:

a. Effective July 1, 2012, a copy of the resolution of the board of supervisors from each county where the urban renewal area from which local sales and services tax revenues are to be collected approving the collection and use of local sales and services tax;

~~a.~~ b. A copy of the urban renewal plan and the resolution adopting the city's urban renewal plan;

~~b.~~ c. A copy of the adopted ordinance, including:

(1) The current and original, if applicable, purpose or purposes for which the local option sales and services tax was enacted; and

(2) The amount and proportion of revenue that will be redistributed from each current revenue purpose to fund urban renewal within the urban renewal area;

~~c.~~ d. The legal description of the urban renewal area covered by the ordinance;

~~d.~~ e. A map showing the geographic boundaries of the urban renewal area; and

~~e.~~ f. A geographic information system boundary file, if available, showing the geographic boundaries of the urban renewal area.

239.4(2) Each urban renewal area must have its own separate ordinance, and the department shall be notified separately for each urban renewal area. Notification shall be mailed or otherwise submitted to: Director, Iowa Department of Revenue, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319.

~~**239.4(3)** Notification shall be mailed or otherwise submitted to: Director, Iowa Department of Revenue, Hoover State Office Building, 1305 E. Walnut Street, Des Moines, Iowa 50319: Each urban renewal area must have its own separate resolution of the board of supervisors from each county from which local option sales and services tax revenues will be collected and used for urban renewal projects located within the urban renewal area.~~

ITEM 3. Amend rule 701—239.6(423B) as follows:

701—239.6(423B) Calculation of base year taxable sales amount. The base year taxable sales and services amount will be the total taxable sales and services subject to the local sales and services tax that are made by retail establishments within the urban renewal area during the base year. Taxable sales of tangible personal property and services that are subject to the local sales and services tax that are made by retail establishments or service providers located within the urban renewal area include only those sales that are sourced to the county in which the urban renewal area is located. Those sales made by retail establishments or service providers located within the urban renewal area that are sourced outside of the county are not subject to the local sales and services tax. For sourcing rules see Iowa Code section 423.15 and 701—Chapter 223.

ITEM 4. Amend rule 701—239.9(423B) as follows:

701—239.9(423B) Example Examples. The following examples illustrate the application of the rules in this chapter:

EXAMPLE 1. City A has an urban renewal area that covers a large portion of its downtown. City A and all of its downtown area are located in County B. City A also has in place a 1 percent local sales

and services tax. ~~On October 30, 2008, City A's city council enacts~~ wants to enact an ordinance that establishes the urban renewal area as a local sales and services tax increment district which designates 100 percent of the tax growth increment amount to the special city account. Before City A's city council can establish the local sales and services tax district, County B's board of supervisors must adopt a resolution approving City A's local sales and services tax increment district. ~~The ordinance also designates 100 percent of the tax growth increment amount to the special city account.~~

The base year taxable sales amount for the urban renewal area will equal the amount of taxable sales made by retail establishments in the urban renewal area for the fiscal year in which the ordinance was adopted. Assume City A's urban renewal area has \$10,050,000 in taxable sales during the ~~2008-2009~~ 2013-2014 fiscal year.

At the end of the fiscal year following the fiscal year in which the ordinance was adopted (June 30, ~~2010~~ 2015, in this example), City A's urban renewal area has taxable sales of \$25,000,000. To determine the tax growth increment amount, the department subtracts the base year taxable sales amount from fiscal year two's taxable sales amount then multiplies the remainder by the local sales and services tax rate of 1 percent as follows:

$$\$25,000,000 - \$10,050,000 = \$14,950,000$$

$$\$14,950,000 \times .01 = \$149,500$$

The result is a tax growth increment amount of \$149,500. The department of revenue will deposit \$149,500 into the city's special account no later than November 10 following the end of the fiscal year.

EXAMPLE 2. Same facts as Example 1, but City A's urban renewal area is located in County B and County C. Before City A can enact an ordinance that establishes the urban renewal area as a local sales and services tax increment district, the boards of supervisors from County B and County C must adopt resolutions approving City A's local sales and services tax increment district.

ITEM 5. Amend **701—Chapter 239**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 423B.1; and 423B.7 and section 423B.10 as amended by 2012 Iowa Acts, House File 2460, section 23.